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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2010-6
ADOPTED SEPTEMBER 23, 2010**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
BYRAM TOWNSHIP, SUSSEX COUNTY, NEW JERSEY**

Prepared by the State of New Jersey Highlands Water Protection and
Planning Council in Support of the Highlands Regional Master Plan

SEPTEMBER 17, 2010

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INTRODUCTION

This Final Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the New Jersey Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Township of Byram, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

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REPORT SUMMARY

Municipality: Byram Township

Date of Petition Submission: December 8, 2009

Date Deemed Complete: February 4, 2010

Conformance Area: Planning Area & Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	None
4. Other		N/A

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*		
2. Module 3 Housing Element/Plan	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per Section B.5; D.1
6. Module 7 Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	Follow-Up Required per Section B.6; D.1
7. Other		N/A

*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	12/8/09	Pending
2. Map Adjustments	12/8/09	To be Addressed via Center Designation
3. Center Designation Requests	12/8/09	Pending/Approve with Conditions
4. Highlands Redevelopment Area Designation Requests	12/8/09	To be Addressed via Center Designation
5. Other	N/A	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** Two Resolutions petitioning the Highlands Council for Plan Conformance were adopted by the municipal Governing Body at its noticed public meeting of November 23, 2009, one for each the Preservation Area and the Planning Area. The documents submitted are appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolutions relies upon the model provided by the Highlands Council. The Resolutions clearly petition the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in both the Preservation Area and the Planning Area of the municipality.
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolutions petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a. Copy of public meeting notices and meeting agendas for meetings of the Planning Board held on 10/01/09 and 11/19/09 to discuss Plan Conformance and/or Petition components.
 - b. Copy of meeting agendas associated with meetings of the Planning Board held on 10/15/09 and 11/05/09 to discuss Plan Conformance and/or Petition components.
 - c. Copy of draft meeting minutes associated with the 10/01/09 and 10/15/09 Planning Board meetings.
 - d. Copy of public meeting notices and meeting agenda(s) from Special Joint Meetings of the Governing Body and Planning Board held on 9/21/09 and 10/29/09 to discuss Plan Conformance, and draft meeting minutes associated with the meeting of 9/21/09.
 - e. Copy of agenda and draft meeting minutes from public meeting of the Governing Body held on 11/23/09 to discuss Plan Conformance, and to adopt the Resolutions petitioning the Highlands Council for Plan Conformance.
- 3. List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be, and are, available in the offices of the Highlands Council in Adobe pdf format.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

- 1. Highlands Municipal Build-Out Report (Modules 1-2).** The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is July 2009.
- 2. Housing Element & Fair Share Plan (Module 3).** Both the RMP and Highlands Council instructions concerning submission of Master Plan Housing Elements and Fair Share Plans, sought municipal participation in a three-step process, intended to culminate in the submission of fully developed affordable housing plans to both the Highlands Council and the Council on Affordable Housing (COAH) (or alternatively the Highlands Council and the Superior Court). This process was designed to assist municipalities in developing plans to address fair share housing obligations that are consistent with the RMP. For most Highlands municipalities, the deadline for submission to COAH was extended to June 8, 2010. The extended time allowance was intended to provide for completion of Highlands Municipal Build-Out Reports (see Modules 1-2, above) and incorporation of resulting information into fully developed affordable housing plans in accordance with Executive Order #114 (2008) and COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. This process also allows for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP.

The Township of Byram provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance, while the remaining items were provided in accordance with the revised submission deadlines. The dates of Highlands Council findings of completeness of each component and a review of each for its consistency with the RMP and all Plan Conformance requirements, follows.

- a. Summary of Obligation.** The submission was deemed complete on January 8, 2010.
 - i. Prior Round Obligation.** The Prior Round Obligation was correctly indicated and no follow-up information was required.
 - ii. Consistency Review of Prior Round Sites.** One Prior Round Site was proposed and reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool. A brief summary of the results follows. The completed Highlands Council form used to review and report on Byram's Prior Round Site, appears in Appendix A.
 - Prior Round Site: Block 365 Lots 2 & 5.** Village Center Mixed-Use Project proposal providing inclusionary development. Project

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is part of request for Highlands Center designation. The properties are located in the Planning Area and have limited Highlands resource constraints, which, as discussed at a Highlands Council work session held on April 15, 2010, can be appropriately addressed through Highlands Center designation. Properties have access to public wastewater with sufficient allocated capacity to address Byram's originally-proposed Phase I, including the Prior Round Obligation.

iii. Municipal Growth Projections. Growth Projections were correctly indicated in the COAH Workbook D form provided by the municipality and no follow-up information was required. The final figures are listed below. Note: Highlands Full Build-Out Projections apply in the case of conformance for both Planning and Preservation Areas in accordance with COAH's instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*, COAH Growth Projections apply in other cases, until or unless modified by COAH consistent with the Guidance or as applicable, the Superior Court.

- **Highlands Full Build-Out Projections**

- Residential Growth (housing units): 55
- Non-Residential Growth (jobs): 184
- Total Growth Share, after exclusions (units): 12

- **COAH Growth Projections through 2018**

- Residential Growth (housing units): 373
- Non-Residential Growth (jobs): 110
- Total Growth Share, after exclusions (units): 55

b. Draft Housing Element & Fair Share Plan. The submission was deemed complete on February 24, 2010. Review of the draft Housing Element and Fair Share Plan indicated that the municipality would likely complete the planning process necessary to satisfactorily address the Fair Share Obligation while at the same time ensuring consistency with the requirements of the RMP as to site development. The municipality has asked that COAH delay review of its initially-submitted Housing Element and Fair Share Plan, pending the outcome of its request for a Highlands Village Center designation. Compliance with the RMP for the Planning Area, which consists solely of the lands within the proposed Highlands

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Village Center, results in an adjustment to the Growth Share Obligation. This Report recommends approval of the proposed Highlands Village Center designation (discussion at Section C3, below). Completed Highlands Council forms used to review and report on this component appear in Appendix B, while a summary of findings follows. These findings constitute a preliminary analysis of the Draft Housing Element and Fair Share Plan by the Highlands Council. Formal review of fully developed affordable housing plans will be conducted by COAH.

i. Summary of Municipal Obligation. The Municipal Obligation appears to be correctly calculated and includes each of the components listed below.

- **Rehabilitation Share:** 24 units
- **Prior Round Obligation:** 33 units
- **Growth Share Obligation:** 12 units

ii. Summary of Proposed Fair Share Plan. The draft Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below.

- **Rehabilitation Program:** Funded by Small Cities Grant funding, the program provides for revolving 2% loans aligned with applicant income and on-going rehabilitation for income-qualified households. The Plan anticipates completion of 2-4 rehabilitation projects per year to fully address the Rehabilitation Share within the 10-year planning period. Anticipated Credits: 24.
- **Prior Round Site:** Block 365 Lots 2 & 5, as noted previously. The Township proposes a Village Center Mixed-Use Project providing inclusionary development, as follows: 26 low/moderate income units including 20 family rental units and 6 age-restricted for sale units. The project would qualify for 9 rental bonus credits, ultimately providing 2 surplus credits to apply to the Growth Share Obligation. Anticipated Credits: 35.
- **New Project/Site 1:** 8 vacant parcels owned by Byram Township, as listed below, each proposed for development of a single-family, for sale home, by Morris Habitat for Humanity. Each is zoned for single-family development and would be serviced by an on-site well and septic system; each also appears likely to qualify for a Highlands Act exemption. Anticipated Credits: 8.

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- Block 3 Lot 831, 1 Glen Brook Street (0.16 Ac)
 - Block 15 Lot 590, 7 Banker Drive (0.12 Ac)
 - Block 16 Lots 85 & 125, 55 Ash Street/21 Adair Street (0.34 Ac)
 - Block 17 Lot 45, 27 Acorn Street (0.17 Ac)
 - Block 56 Lot 47, 1 Shadybrook Road (0.21 Ac)
 - Block 14 Lot 175, 2 Banker Drive (0.10 Ac)
 - Block 249 Lot 28, 37 Lake Drive (0.40 Ac)
 - Block 7 Lot 305, 33 Beech Street (0.34 Ac)
- **New Project/Site 2:** Vacant lot owned by Byram Township proposed for construction of 4-bedroom group home for special needs individuals by non-profit organization, NewBridge. Property known as Block 8 Lot 747, located at 85 River Road, consisting of 0.24 acres. Zoned for residential, service by on-site well and septic system; appears likely to qualify for a Highlands Act exemption. Anticipated Credits: 5.
 - **Other Mechanisms:** Additional group homes under discussion; no sites as yet specified. Minimum Anticipated Credits: 5.
- iii. Recommendations.** Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions have been inserted into the draft Byram Township Master Plan Highlands Element by the Highlands Council (as discussed with Byram), and should be retained as a supplement to the Housing Section, therein.
- c. Final Housing Element & Fair Share Plan.** *[Section completed on August 23, 2010.]* The submission was deemed complete on June 7, 2010. The final Housing Element and Fair Share Plan submittal appears to address the municipality's Fair Share Obligation. Any final determination in that regard will be made by COAH. As to consistency with the requirements of the RMP, the Plan is satisfactory. The final Housing Element and Fair Share Plan is essentially unchanged from the draft version previously submitted to the Highlands Council.
- i. Summary of Municipal Obligation.** Unchanged.

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ii. Summary of Proposed Fair Share Plan.

- **Rehabilitation Program:** Unchanged.
- **Prior Round Sites:** Unchanged.
- **New Project/Sites:** Unchanged.
- **Other Mechanisms:** Unchanged.

iii. Recommendations to Achieve Consistency None necessary. Village Center units will be part of the comprehensive planning initiative included within Byram's Highlands Village Center designation. Construction of the remaining units (consisting of individual homes, each proposed on an existing vacant lot), should qualify as exemptions under the Highlands Act, provided disturbance/impervious surface limitations are adhered to.

- 3. Environmental Resource Inventory (Module 4).** The proposed Township of Byram Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input of all parties. The Township of Byram Highlands ERI as now proposed, contains all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.
- 4. Master Plan Highlands Element (Module 5).** The proposed Township of Byram Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The Township of Byram Highlands Element as now proposed contains nearly all required Highlands Element language and all applicable maps/exhibits, as necessary, to address the immediate mandatory requirements of Plan Conformance.

Byram Highlands Village Center Designation. It is important to note that Byram Township's Master Plan Highlands Element will require certain modifications to reflect the anticipated designation of its Planning Area as a Highlands Village Center. As currently developed, the Element incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center designation, Byram's revised Highlands Element should: a) recognize and set aside specified areas of Preserved Open Space within the Center that are essential to the protection of critical Highlands Environmental Resources; b) provide for areas of infill development and redevelopment that are both consistent with available water supply and wastewater treatment capacities, and designed in

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accordance with center-based, smart growth development standards; and c) allow for higher density, mixed-use development of a core “Village Center Zone” providing for residential/retail/commercial development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format, regulated using a form-based code. These modifications will, in large part, supplant the provisions currently included in Byram’s Highlands Element, with respect to Byram’s Planning Area. Additional Note: Approximately 39 acres of Byram’s Planning Area consists of an isolated body of land (including five parcels), located outside of, and to the southeast of the main body of the Township and its municipal boundary lines. Known as “Byram Island,” the lands in question are fully under the control of the State of New Jersey, including the NJDOT and NJDEP, and border on Musconetcong State Park between the Boroughs of Stanhope and Hopatcong. These lands are not a part of the proposed Village Center and given their ownership status, will be excluded from the application of all Planning Area provisions of the finally adopted Byram Township Highlands Element and Highlands Area Land Use Ordinance.

Retention of Separate Highlands Planning Documents. The Township has also expressed an interest in integrating the Highlands Master Plan Element into the body of the Municipal Master Plan, such that one document alone may be relied upon for comprehensive municipal planning. The Highlands Council does not recommend this approach however, primarily due to the complexities that arise due to Highlands Act exemptions. To retain Land Use authority over projects and activities that qualify as Highlands Act exemptions (or that are listed in the model Land Use Ordinance as exclusions), municipalities must rely upon underlying zoning/land use regulations, which are supported by underlying municipal master plans. For this reason, and the inherent potential for confusion in applying the various provisions, integration of master plan (or regulatory) documents is neither mandatory, nor anticipated under Plan Conformance. For purposes of Basic Plan Conformance, the modifications discussed above should receive priority attention, with any additional non-mandatory efforts considered only under Full Plan Conformance.

Municipal Master Plan Land Use Plan Element. The Highlands Implementation Plan & Schedule expressly lists each component of the Master Plan and provides for municipal prioritization for development/revision of any component of special concern. In Byram’s case, revision of the Land Use Plan Element can be noted as a priority therein if desired, to address concerns regarding differences in density allowances between the underlying Municipal Master Plan and the Highlands Master Plan Element. It should be noted however, that the differences of concern may in large part, need to be retained even in a revised Land Use Plan. (Note: If Byram chooses to do this the Highlands Council will assist with technical help and grants subject to availability of funds and Highlands Council approval.) For the Preservation Area, one set of standards will be needed for application to existing development, exemptions, exclusions, and areas served by existing sewer and water infrastructure. Another set of standards will be needed to apply to any (non-exempt, non-excluded) development involving installation of a new septic system; this latter set being bifurcated into two, by categorization as Major Highlands Development and non-Major

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Highlands Development. Note that application of such standards as MLUL-based density allowances will be problematic, as the Land Use Plan cannot predict (and should not dictate) whether development applications will constitute Major Highlands Development (with density determined by NJDEP septic system density rules under N.J.A.C. 7:38) or non-Major Highlands Development (wherein density is determined by nitrate dilution analysis, by subwatershed and Highlands Zone). Because the basis for determining density of development is so different from standard MLUL-based planning protocols, the strongest legal protections for effectuating the new provisions is most probably by use of the segregated but supplemental Master Plan Highlands Element, as provided by the Highlands Council. For the Planning Area, a completely different set of standards will apply to the designated Village Center area.

Review of Submittal Document. For purposes of the review that follows, the evaluation pertains to the Element as currently prepared. All recommendations listed herein are intended to apply as a part of the proposed conditions of approval of Byram's Petition for Plan Conformance (inclusive of modifications as may be required in keeping with Byram's anticipated Highlands Center Designation).

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates "Consistent." Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates "Not Applicable – Deleted." Where modifications are required to achieve consistency or otherwise address Basic Plan Conformance requirements, the heading or sub-heading indicates, "Modifications Required." In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Introduction.** The discussion regarding the applicability of the document must be updated to describe and exclude the 39-acre land area referenced above ("Byram Island"), which lies outside of the Township's main boundary lines and falls fully under the jurisdiction of the State of New Jersey (NJDOT, NJDEP).
- b. **Policies, Goals & Objectives.** Consistent
 - i. Preservation Area Goals. Consistent.
 - ii. Planning Area Goals. Consistent.
 - iii. General Purposes of Zoning. Consistent.
 - iv. Relationship Between Highlands Act & MLUL. Consistent.

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c. Land Use Plan Element. Modifications Required

- i. Highlands Zones and Sub-Zones. Byram Township does not contain areas designated as Conservation Zone (or associated Environmentally Constrained Sub-Zone) or as Wildlife Management Sub-Zone. The text has been modified to delete all references within the document.
- ii. Land Uses. Consistent. Section on Agricultural Resource Area is Not Applicable – Deleted.
- iii. Density and Intensity of Development. Consistent, however minor modifications required for internal consistency (see track-changes in document text).
- iv. Cluster Development. Not Applicable – Deleted.
- v. Land Use Inventory. Consistent.
- vi. Redevelopment Planning. Consistent, however minor modifications recommended within document text.
- vii. **Highlands Village Center Designation.** Staff recommends inclusion of a new section providing a discussion on the proposed designation of Byram’s Highlands Village Center applicable to the Planning Area portion of the municipality (exclusive of “Byram Island,” the 39-acre portion referenced above which remains fully under the jurisdiction of the State of New Jersey). As a placeholder, a very brief summary has been inserted (see track-changes in document) which should be supplemented accordingly. These provisions will override most of the current Highlands Element with respect to proposed development and redevelopment activities within the Planning Area.

d. Housing Plan Element. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.

e. Conservation Plan Element. Consistent.

- i. Forest Resources. Consistent.
- ii. Highlands Open Waters and Riparian Areas. Consistent.
- iii. Steep Slopes. Consistent
- iv. Critical Habitat. Consistent.

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- v. Carbonate Rock. Consistent.
- vi. Lake Management. Consistent.
- vii. Water Resources Availability. Consistent.
- viii. Prime Ground Water Recharge Areas. Consistent.
- ix. Water Quality. Consistent.
- x. Wellhead Protection. Consistent.
- xi. Low Impact Development. Consistent.
- f. **Utility Services Plan Element.** Consistent.
 - i. Preservation Area. Consistent.
 - ii. Planning Area. Consistent.
 - iii. Planning & Preservation Areas. Consistent.
- g. **Circulation Plan Element.** Consistent; however minor modifications recommended for clarification purposes.
 - i. Please complete the section regarding current transportation system needs; examples are provided for generic purposes; please select those applicable to Byram and/or add new items as appropriate.
- h. **Land Preservation/Stewardship Plan Element.** Consistent, however minor modifications recommended, not required (see document text), to recognize agricultural uses and farmland soils and to provide opportunity for potential future inclusion of preserved farmland.
- i. **Agriculture Retention/Farmland Preservation Plan Element.** Not Applicable – Deleted.
- j. **Community Facilities Plan Element.** Consistent.
- k. **Sustainable Economic Development Plan Element.** Consistent.
- l. **Historic Preservation Plan Element.** Consistent.
 - i. Historic, Cultural, and Archaeological Resources. Consistent however, alternative language has been inserted into the document for the

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municipality to review and consider. It provides for the case where a municipality chooses not to regulate historic resources, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory.

- ii. Scenic Resources. Consistent.
 - m. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it. Deleted.
 - n. **Relationship of Master Plan to Other Plans.** Consistent.
 - o. **Exhibits.** The list of Exhibits includes all that apply to the municipality. The applicable Exhibits are attached to the Highlands Element, with the exception that one map, Exhibit A, "Township of Byram Highlands Area," should be exchanged for a map that depicts the Preservation and Planning Areas as well as all of the Highlands Zones and Sub-Zones. The correct map is included among those provided with the Township Highlands ERI, being labeled therein as "Regional Master Plan Overlay Zone Designation." Please also note (in Master Plan Exhibits file (pdf)) requested deletion of the following, previously included Exhibits, which are not applicable:
 - i. Septic System Yield Map (Septic System Yield will be determined on a site-specific basis using the Nitrate Dilution Model discussed in text.)
 - ii. Agricultural Resource Area (Highlands Council has determined that the ARA does not apply within Byram Township.)
 - iii. Agricultural Priority Area (Highlands Council has determined that the Agricultural Priority Area does not apply within Byram Township.)
5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Byram Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. Since the time of issuance of the Model, the Highlands Council, working with municipal professionals, has made certain revisions to the document to refine and simplify it for purposes of municipal implementation. With minor exceptions, the Ordinance as proposed by Byram contains the language necessary to address the immediate mandatory requirements of Plan Conformance.

Byram Highlands Village Center Designation. It is important to note that Byram Township's Highlands Area Land Use Ordinance will require certain modifications to reflect the anticipated designation of its Planning Area as a Highlands Village Center, however. As currently developed, the Ordinance incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Village Center

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designation, Byram's revised Ordinance should (in recognition of the work undertaken by Byram and in collaboration with the Highlands Council): a) recognize and protect specified areas of Preserved Open Space within the Center that are essential to the protection of critical Highlands Environmental Resources (including the Lubbers Run Greenway Area); b) provide for areas of infill development and redevelopment that are both consistent with available water supply and wastewater treatment capacities, and designed in accordance with center-based, smart growth development standards; and c) allow for higher density, mixed-use development of a core "Village Center Zone" providing for residential, retail, and commercial development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format, regulated using a form-based code. These modifications will in large part, supplant the provisions currently included in Byram's Highlands Area Land Use Ordinance, with respect to regulation of Byram's Planning Area. The provisions will establish Byram's Highlands Village Center as a special district or area, unto itself, with a unique set of applicable regulatory provisions. The Center provisions will override the provisions otherwise applicable to the Highlands Zones and Sub-Zones located therein. No additional or separate ordinance will be required with respect to regulation of land use and development within the Village Center.

Review of Submittal Document. For purposes of this review, the evaluation following pertains to the Ordinance as currently prepared. All recommendations listed herein are intended to apply as a part of the proposed conditions of approval of Byram's Petition for Plan Conformance (inclusive of modifications as may be required in keeping with Byram's anticipated Highlands Center Designation).

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates "Consistent." Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates "Not Applicable – Deleted." Where modifications are required to achieve consistency or otherwise address Basic Plan Conformance requirements, the heading or sub-heading indicates, "Modifications Required." In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Article 1. Title, Purpose, Scope.** Consistent; the Township will address/incorporate the minor modifications by the Highlands Council. Please see edits in document text.
- b. **Article 2. Applicability.** Consistent; the Township will address/incorporate the modifications by the Highlands Council. Please see edits in document text. In addition, language will be added to exclude the 39-acre portion of Byram lands referenced above that lies outside of its main boundary lines and falls fully under the

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jurisdiction of the State of New Jersey (“Byram Island”) from application of the Planning Area provisions of the Ordinance.

- c. **Article 3. Definitions.** Consistent; the Township will address/incorporate the minor modifications by the Highlands Council. Please see edits in document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Byram Township does not contain areas designated as Conservation Zone (or associated Environmentally Constrained Sub-Zone) or as Wildlife Management Sub-Zone. As such, the text has been modified to delete all references within the document. The section is otherwise consistent; the Township will address/incorporate the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4.2. Please see edits in document text.
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent; the Township will address/incorporate the significant modifications made to the section by the Highlands Council. Please see edits in document text. Note: Agricultural Resource Area provisions deleted – not applicable pursuant to RMP Update findings.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent.
 - i. Forest Resources. Consistent.
 - ii. Highlands Open Waters & Riparian Resources. Consistent.
 - iii. Steep Slopes. Consistent.
 - iv. Critical Habitat. Consistent.
 - v. Carbonate Rock. Consistent.
 - vi. Lake Management Area. Consistent.
 - vii. Water Conservation & Deficit Mitigation. Consistent.
 - viii. Prime Ground Water Recharge Areas. Consistent.
 - ix. Wellhead Protection. Consistent.
 - x. Agricultural Resources. Consistent.
 - xi. Historic, Cultural & Archaeological Resources. Consistent as initially completed, however the Township must address the modifications made by the Highlands Council. Please see edits in document text. These

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regulatory provisions have been made optional, though recommended, and the Township will need to make a determination regarding the preferred approach to this issue.

- xii. Scenic Resources. Consistent.
- g. **Article 7. Highlands Area General Regulations.** Consistent.
 - i. Affordable Housing. Consistent.
 - ii. Low Impact Development. Consistent.
 - iii. Conservation Restrictions. Consistent; the Township will address/incorporate the modifications made by the Highlands Council. Please see edits in document text.
 - iv. Stormwater Management. Consistent.
 - v. Special Environmental Zone. Consistent.
 - vi. Septic System Design and Maintenance. Consistent.
 - vii. Public Water Systems. Consistent.
 - viii. Wastewater Collection and Treatment Systems. Consistent.
- h. **Article 8. Planned Development Regulations.** Not Applicable – Deleted.
- i. **Article 9. Application Review Procedures & Requirements.** Consistent; the Township will address/incorporate the significant modifications to the section made by the Highlands Council. Please see edits in document text.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent; the Township will address/incorporate the minor modifications made by the Highlands Council. Please see edits in document text.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent.
- l. **Appendices.** Consistent.
- m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was

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initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance.

6. Petition Submission Documents (Module 7).

- a. Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to achieve Full Plan Conformance.

 - i. Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Basic Plan Conformance.
 - ii. Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately for purposes of Basic Plan Conformance.
- b. Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the municipality to achieve or exceed Full Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included the mandatory components required to achieve Full Plan Conformance and incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council, however, and Byram's document has been updated accordingly. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of Petitions, into and including the 2011 State fiscal year.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Full Plan Conformance activities, the estimated costs and timeframes for completion of which, Byram can continue to consider. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule. Important in this regard, are the tasks involving Byram's Highlands Village Center. Modifications to the Township Master Plan, whether specifically to the Highlands Element addendum or otherwise, will be needed to fully incorporate the relevant aspects of the Byram Village Center plan proposal, as approved by the Highlands Council as part of its designation of a Highlands Village Center. Detailed regulatory provisions will next be required to effectuate the plan and ensure compliance with all Highlands RMP requirements.

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The revised Highlands Implementation Plan and Schedule for Byram Township includes items that will ultimately be deleted, as they are not applicable to the Township (these show as marked for deletion). Items added to the Highlands Council template document, appear in red text or have been highlighted in green.

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

- 1. RMP Updates.** The Petition for Plan Conformance was accompanied by requests for a number of RMP Updates. These requests are listed and described in the attachment(s) at Appendix C, with a summary of the current status or final results of review and processing provided below.
 - a. Center Zone Map.** Delineation of the Highlands-designated Village Center as proposed will coincide with the limits of Byram's Planning Area, and the "Village Center Zone" area will be incorporated therein as agreed between Byram and the Highlands Council (please see further discussion below and in Appendix D, inclusive of schematic diagrams). This will be accomplished not as an RMP Update, but as part and parcel to Byram's Highlands Village Center designation.
 - b. Vernal Pools.** Requires coordination with NJDEP; additional information concerning missing Vernal Pool(s) being provided by Byram. Vernal pools are certified by NJDEP and only then included in Critical Habitat maps.
 - c. Highlands Preserved Lands/Open Space.** Under review; pending.
 - d. Wellhead Protection Areas.** Requires coordination with NJDEP; additional information concerning missing Wellhead Protection Area for Forest Lake Water Company wellhead being provided by Byram.
 - e. Agricultural Resource Area.** Update approved to remove the area so-designated, primarily resulting from new information provided concerning residential development of the portion previously indicated as Agricultural Priority Area.
 - f. Highlands Historical, Cultural, Archaeological Resource Inventory.** Request reclassified; the addition of local sites/districts does not constitute an RMP Update (which involves a correction or update to base maps, information). Criteria are under development for nomination and review of historic/cultural/archaeological resources proposed to be added to the Highlands Inventory. Local sites/districts not yet listed will be considered for inclusion within the Highlands Inventory after such criteria are made available. Pursuant to Byram's submittals, sites/districts will be submitted for these purposes as soon as the criteria are made available. The municipality may continue to protect these resources under existing MLUL provisions.
 - g. Scenic Resources Inventory.** Request reclassified; the addition of scenic resources does not constitute an RMP Update (which involves a correction or update to base

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maps, information). The Highlands Council adopted its “Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources (October 2008) which is available at http://www.highlands.state.nj.us/njhighlands/implementation/scenic_procedures_103008_final.pdf. Local resources not yet listed may be submitted for Highlands Council consideration pursuant to these procedures. Pursuant to Byram’s submittals, additional scenic resources will be submitted for such consideration under Full Plan Conformance. The municipality may continue to protect these resources under existing MLUL provisions (i.e., historic preservation).

2. **Map Adjustments.** The Petition for Plan Conformance was accompanied by a general request for Map Adjustments, as needed, to place Byram’s Planning Area fully within the Existing Community Zone. Highlands Council Staff recommended, and the Highlands Council and Byram elected officials and professionals have collaborated on a proposed Highlands Village Center (see #3, following), thus obviating the need for the requested Map Adjustments.

- a. **Map Adjustment Request(s).** Reclassified.

3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was accompanied by a request for a Highlands Center Designation, which would apply to Byram’s Center (expired May 19, 2010), as designated by the State Planning Commission pursuant to the standards and criteria of the State Development and Redevelopment Plan (SDRP). Byram has chosen to pursue Highlands Center Designation through the Highlands Plan Conformance process. This request is described in detail in the attachments at Appendix D, inclusive of Highlands Council Staff recommendations. The Byram Village Center concept was the subject of a work session of the Highlands Council held on April 15, 2010. In sum, Highlands Council Staff recommends approval of the Highlands Center Designation, with incorporation of the conditions as listed at Appendix D.

- a. **Highlands Center Designation Request.** Staff Recommendation to Approve with Conditions.

4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was accompanied by a general request for Highlands Redevelopment Area Designations as needed, to ensure Redevelopment opportunities within Byram’s Village Center. As noted above, Highlands Council Staff recommends instead that the full extent of the areas in question be included within a designated Highlands Center, obviating the need for individual Highlands Redevelopment Area Designations.

- a. **Highlands Redevelopment Area Designation Request(s).** Reclassified.

5. **Other.** The Petition for Plan Conformance was not accompanied by requests for approvals not listed above.

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D. FINAL STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Byram, be approved with conditions as outlined below.

- 1. Approval with Conditions.** Highlands Council Staff recommend that this Petition for Plan Conformance be approved with conditions by the Highlands Council. The approval should be conditioned upon satisfaction of the below-listed requirements and any additional issues noted within Sections A through C of this Report, and to the extent applicable, the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents.

- a. Adoption of Approved Planning Area Ordinance.** The municipality shall prepare and submit to the Highlands Council a draft municipal ordinance petitioning the Highlands Council for Plan Conformance with respect to the municipality’s Planning Area lands (based upon or consistent with the model provided by the Highlands Council). The Ordinance should include language to incorporate Byram’s Highlands Village Center, designation of which shall apply to Byram’s Planning Area (with exception of “Byram Island”), as described in Appendix D. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Planning Area Petition Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Ordinance adoption shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

- b. Adoption of Approved Checklist Ordinance.** The Township shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with: for the Preservation Area, the RMP, and for the Planning Area, the approved Highlands Center Designation. This approach will

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ensure that environmentally sensitive areas are protected and that neither water availability nor wastewater treatment capacity is inappropriately allocated or exceeded in ways harmful to the intended development of the Center. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which set forth at 1.e., below).

- c. Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be completed in accordance with the requirements of Section B3 of this Report (if applicable), and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the ERI shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.
- d. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of

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Section B4 of this Report, and submitted to the Highlands Council for final approval. This task will include significant modifications to incorporate Byram's Highlands Village Center and provide for the development program applicable thereto, as described in Appendix D. Development of the Highlands Element will involve a collaborative process between Byram Township officials and Highlands Council Staff. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.

- e. **Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Just as in the case of the Highlands Element, this task will include significant modifications to incorporate Byram's Highlands Village Center and provide for the development program applicable thereto, as described in Appendix D. Development of the Highlands Area Land Use Ordinance will involve a collaborative process between Byram Township officials and Highlands Council Staff. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use Ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed

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modifications to any portion of the Highlands Area Land Use Ordinance, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Governing Body.

- i. Municipal Exemption Determinations.** As a component of the Highlands Area Land Use Ordinance, the Township shall provide for “Municipal Exemption Determinations” in accordance with Highlands Council delegation of such authority to the municipality. Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Area Land Use Ordinance. The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council granting it the authority to do so.
- ii. Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Area Land Use Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the Ordinance. Such sessions will provide detailed instruction on application processes and procedures, notice requirements, Highlands Council referrals and call-up provisions, decision-making and formal action, variances, waivers, exceptions, enforcement activities. Prior to the effective date of the Municipal Exemption Determination provisions, moreover, municipal representatives (in particular, Exemption Designee(s)) shall attend an information and training session on the exercise of Municipal Exemption Determination authority.
- f. Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Ordinance which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones, Sub-Zones and Village Center (with designated Center areas). The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.
- g. COAH Approval of Housing Element & Fair Share Plan.** The Township’s Housing Element and Fair Share Plan was adopted by the Land Use Board (May 17, 2010), endorsed by the Governing Body (May 17, 2010), and submitted with the Byram Township petition to the Council on Affordable Housing (COAH) for

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substantive certification (received by COAH on June 8, 2010), in accordance with all applicable procedures and requirements. The Township has provided copies of all correspondence related to the petition, thus far, and will continue to copy the Highlands Council on all related correspondence and keep the Highlands Council apprised of the process as it unfolds. Any subsequent revision to the Housing Element and Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. (In recognition of potential changes in the applicable laws pertaining to the provision of affordable housing in the state of New Jersey, these requirements shall be considered subject to modification, with the intent of the Highlands Council being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and requirements at any given time, so to protect the municipality from legal challenge.)

- h. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all COAH requirements and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final COAH-approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- i. Adoption of Wastewater Management Plan (WMP).** The municipality shall prepare and adopt a Wastewater Management Plan working with the Highlands Council under Plan Conformance. This plan will be recognized as a chapter of the County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. The current NJDEP due date for such Plans is April 11, 2011.
- j. Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, including all activities required to support Byram's Highlands Village Center designation, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually agreed by the municipality and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the municipality or other party, to ensure the satisfactory completion of each project or activity, or each phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the

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completion of mandatory items and shall be undertaken only as time and resources are available to support them.

i. Development/Approval of Implementation Plan Components.

Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

ii. Adoption of Regulations Implementing Plan Components. All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

iii. Mandatory Components. Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council and funding provided), all intended as municipal-wide, long-term initiatives except as otherwise noted (and where applicable and appropriate – see asterisks * – building upon such documents already developed/adopted by Byram Township). It is the explicit intention of the Highlands Council that such Plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the Township.

- Water Use & Conservation Management Plan. Initial phase devoted to Byram's Highlands Village Center; later, longer-term planning phase(s) to cover municipality.
- Stream Corridor Protection & Restoration Plan*
- Forest Stewardship Plan*
- Habitat Conservation & Management Plan
- Lake Restoration Management Plan*
- Stormwater Management Plan (Updates Only)*
- Land Preservation and Stewardship Program*
- Septic System Management/Maintenance Plan*
- Implementing ordinances associated with each of the above (long-term, as applicable), as well as a Right to Farm ordinance (adoption

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of which is anticipated earlier in the full Plan Conformance phase without need for a prior planning/program document).*

k. Revisions/Amendments Subject to Highlands Council Approval. Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

2. Optional Petition Requests. The findings below apply to the Optional Petition Requests discussed at Section C of this Report.

- a. RMP Update(s).** The RMP Update(s) requested in connection with this Petition for Plan Conformance should be addressed as discussed at Section C. To the extent feasible, the Highlands Council will review and process all requests that have been accompanied by sufficient information. Where additional information is needed, the Highlands Council will take action upon receipt. Please see Highlands Implementation Plan & Schedule for specific recommended action and scheduling pertinent to each of the nine (9) RMP Updates that Byram has requested.
- b. Map Adjustment(s).** The Map Adjustments requested in connection with Byram's Petition for Plan Conformance should be addressed through Highlands Center designation of Byram's Village Center.
- c. Highlands Center Designation(s).** The Highlands Center Designation requested in connection with Byram's Petition for Plan Conformance should be approved subject to the conditions provided at Appendix D.
- d. Highlands Redevelopment Area Designation.** The Highlands Redevelopment Area Designations requested in connection with this Petition for Plan Conformance should be addressed through Highlands Center designation of Byram's Village Center.

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E. MUNICIPAL RESPONSE PERIOD

All municipal Petitioners are provided a Municipal Response Period after receipt of the Draft Consistency Review and Recommendations Report. This Section is completed after the expiration of the Municipal Response Period or as of the date a municipality chooses, if applicable, to waive its right to the Municipal Response Period.

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated May 26, 2010, to the municipality (sent on May 28, 2010). The Municipal Response Period expired, after an approved extension, on August 19, 2010. The municipality provided deliberative supplemental materials in support of the Petition for Plan Conformance prior to expiration of that Period for Highlands Council consideration, including a draft of the proposed Municipal Response document. With authorization for the additional time approved by the Highlands Council Executive Director, Byram representatives provided the final Municipal Response document on August 19, 2010. Supplemental materials to Byram Township's Petition include the following:

1. Housing Element & Fair Share Plan Submittals, Received June 7, 2010.

(Note: Staff review completed and provided at Section B.2.c., above.)

- a. Final Housing Element and Fair Share Plan, adopted May 17, 2010 by the Township Land Use Board, inclusive of the Board's Memorializing Resolution;
- b. Resolution of the Byram Township Governing Body, adopted May 17, 2010, endorsing the Housing Element and Fair Share Plan and petitioning COAH for substantive certification.

- 2. Schematic Village Center Map.** The Schematic provides the outlines for a minor revision in the use classifications from those previously set forth for the proposed Byram Village Center. The proposed revisions (approximate) have been inserted as a new Figure 2 in Appendix D, of this document. The proposed changes represent a roughly proportionate trade-off between areas containing Highlands resources. They would involve a significant new preserved/open space area on Tax Block 226 Lot 15 (in the northeast corner of the Village Center), with expanded area provided for new construction on Tax Block 34, Lots 14 and 15 (located along the northwest side of the Center). With no net resource loss between the prior and current versions, Highlands Council staff reviewers find that the alternative delineation (added as a replacement to Figure 1 in Appendix D) is a viable option. It would locate developable portions of the Center closer to available infrastructure (including roadway access points), to pedestrian and bicycle oriented areas, and to other commercially-developed parcels. It would also include affordable rental units (toward meeting Byram's Fair Share Housing Obligation), and would be designed using Byram's previously-established Village Center design standards. Any approval will require sign-off by the Highlands Council as a component of the Petition for Plan Conformance.

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F. COMMENTS FROM THE PUBLIC

Following the Municipal Response Period and the incorporation by Highlands Council Staff of revisions resulting from the Municipal Response, as noted above, the Final Draft Consistency Review and Recommendations Report for Byram Township was posted to the Highlands Council website (September 1, 2010) and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Comments were requested by e-mail (judy.thornton@highlands.state.nj.us), facsimile transmission (908-879-4205), surface mail, or hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930).

The period provided for receipt of written public comments on Byram Township's Petition for Plan Conformance ended on September 16, 2010. As of September 17, 2010, the Highlands Council received no public comments on the Petition, whether by mail, facsimile transmission, or e-mail. As such, this Report is not accompanied by a staff developed comment/response document. The Highlands Council will consider any public comments submitted prior to or during the public hearing on the Petition, at the time of the hearing, which is slated for the Highlands Council's regularly scheduled meeting of September 23, 2010, at 4:00 pm.

G. FINAL RECOMMENDATIONS

The recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Byram remain unchanged from the Final Recommendations indicated in preceding Section D of this Report.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Byram, be approved with conditions; with all applicable conditions being those listed and discussed in Section D, above.

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APPENDIX A

**HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN**

Prior Round Site Consistency Review

Byram Township, Sussex County

PLEASE SEE MOD 3 REVIEW FORMS 1 & 2

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APPENDIX B

**HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN**

Draft Housing Element & Fair Share Plan

Byram Township, Sussex County

Date of Draft: February 2010

PLEASE SEE MOD 3 REVIEW FORM 3

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APPENDIX C

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Byram Township, Sussex County

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[The below-listed RMP Update requests were included in Byram's Municipal Self-Assessment Report.]

RMP Updates

The following is a list of likely RMP Updates that the Township will be pursuing subsequent to this petition. Many of these are a result of the review of the ERI, others are a result of the review of the Build-Out Geodatabase.

1. Village Center Zone mapping error. There are 16 acres that are labeled as part of the Village Center parcel (Block 365, 5), that are contained within two different lots, (Block 40 Lot 13.01, 5 acres, and Block 365 Lot 17.01, 10.73 acres). Block 40 Lot 13.01 is located within the Highlands Planning Area. Block 365 Lot 17.01 is located within the Highlands Preservation Area. Neither of these lots is part of the Township's Village Center Zone and neither is part of the Township's COAH plan. The Township requested that this map error be updated and corrected, and the Highlands Council has not updated and corrected the map error. The Township reiterates its request for a map update by the Highlands Council Staff.
2. The Highlands Vernal Pools Inventory is missing a vernal pool at Acorn Street and Route 206, as well as possibly others. The Township will work with the Highlands Council to correct the Highlands Vernal Pools Inventory with Municipal information.
3. The Highlands Preserved Lands and Open Space Inventory is missing a number of Open Space parcels and has included a number of parcels in error, for example:

Missing:

Municipal open space:

- Beckmann parcel, Block 226 Lot 25.02, 53.97 acres.
- Vetter parcel, Block 40 Lot 15.02, 4.21 acres.
- Arnell parcel, Block 336 Lot 43, 44 acres.

State parkland:

- Cranberry Lake dam parcels, Block 383 Lot 2, 7.8 acres.

Included in error:

Municipal open space:

- Municipal building parcel, Block 365 Lot 16.01, 22.04 acres.
- Byram schools parcel, Block 365 Lot 16, 89.81 acres.
- Byram school board parcel, Block 364 Lot 4.01, 13.41 acres.

The Township will work with the Highlands Council to correct the Highlands Preserved Lands and Open Space Inventory with Municipal information.

4. The Highlands Wellhead Protection Areas Inventory for Byram Township does not include the Forest Lake Water Company Wellhead Protection Area. The Township believes that it should be shown, as the Wellhead Protection Area likely extends into Byram, and most of the service area is in

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Byram. The Township will work with the Highlands Council to correct the Highlands Wellhead Protection Areas Inventory with Municipal information.

5. The Highlands Agricultural Resource Areas Inventory for Byram includes a small, triangular area on the border with Green Township. This should be removed because it is not an Agricultural Resource Area. The site is forested, not farmland assessed and is residential in character. Please see the attached map for more clarification. The Township will work with the Highlands Council to correct the Highlands Agricultural Resource Areas Inventory with Municipal information.
6. The Highlands Historical, Cultural and Archeological Resource Inventory for Byram should be taken from the Historic Resources Inventory in the 2004 Township Master Plan. The 2004 Township Master Plan contains many more sites than the one shown on this map. The Township will work with the Highlands Council to correct the Highlands Historical, Cultural and Archeological Resource Inventory with Municipal information.
7. The Highlands Scenic Resources Inventory should be expanded to include other open space parcels, lands used for the Highlands Trail, and potential tracts for preservation. The Township will work with the Highlands Council to correct the Highlands Scenic Resources Inventory with Municipal information.
8. The Highlands Public Community Water Systems Inventory does not include a number of privately managed water companies in the Township. Byram Township has 11 water companies, 10 of which are privately managed but serve the public. The Township believes these additional Public Community Water Systems should be shown. The Township will work with the Highlands Council to correct the Highlands Public Community Water Systems Inventory with Municipal information.
9. The Highlands Domestic Sewerage Facilities Inventory is incorrect. Township can provide correct mapping. Please see the attached map for more clarification. The Township will work with the Highlands Council to correct the Highlands Domestic Sewerage Facilities Inventory with Municipal information.

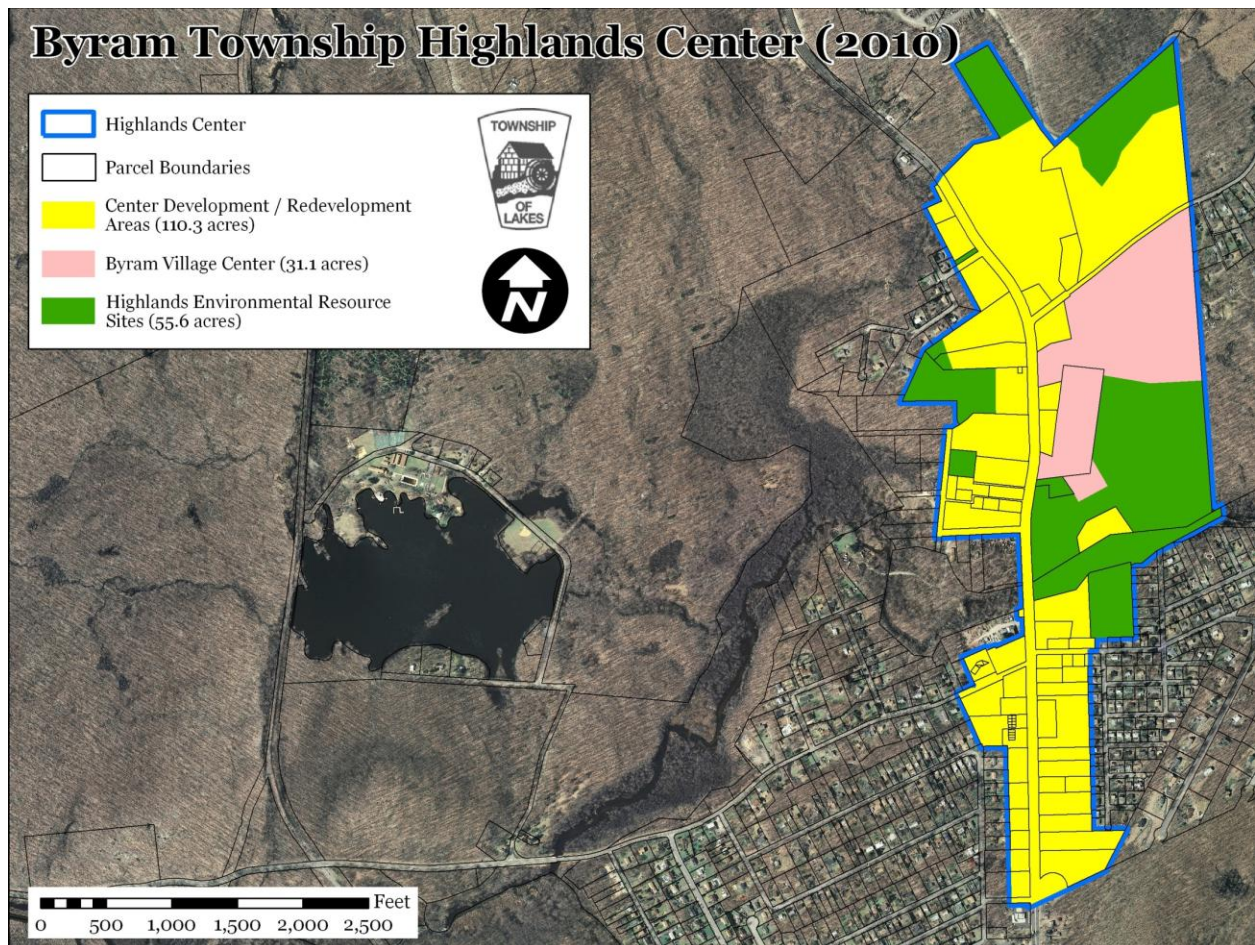
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APPENDIX D

HIGHLANDS COUNCIL REVIEW

REQUEST FOR HIGHLANDS CENTER DESIGNATION

Byram Township, Sussex County



Highlands Council Staff Draft Recommendation Report

Proposed Highlands Center Designation

Byram Township, Sussex County

Re:	Application Type:	<i>Proposed Highlands Center Designation</i>
	Name:	<i>Byram Center</i>
	Municipality:	Byram Township
	County:	Sussex County
	Highlands Act Area:	<i>Planning Area</i>
	Proposed:	<i>Highlands Village Center Designation for Byram Planning Area</i>

EXECUTIVE SUMMARY

Byram Township until May 19, 2010 retained Center Designation as approved by the State Planning Commission under the requirements of the State Development and Redevelopment Plan (SDRP). Byram's Highlands Center proposal represents the bulk of the Planning Area portion of the municipality, which constitutes less than 1.6% of its total land mass, while the remainder of the community lies within the Highlands Preservation Area. (Note: Byram Township also has Planning Area lands consisting of a 39-acre area (including five parcels) which is detached from the rest of the municipality, located to the southeast of the main Township boundary lines, between Stanhope and Hopatcong Boroughs. Known as "Byram Island," these lands are fully under the jurisdiction of agencies of the State of New Jersey (NJDOT, NJDEP) and are not a part of the Center discussion herein.) The Byram Center has been a primary focus of the municipality's planning efforts for the last ten years. As part of the Center Designation process, the municipality completed numerous planning studies, which resulted in reduced zoning densities throughout the Township, the adoption of ordinances protective of environmental features in the environs, and the development of a Smart Growth Plan. The Smart Growth Plan led to new zoning and design requirements and a design handbook to guide development and redevelopment of the Center.

The proposed Byram Highlands Center is recognized as the only portion of the municipality suitable for increased growth. It is situated with extensive frontage on State Route 206 and consists of approximately 197 acres of Planning Area land, representing 124 acres of land that is developed and/or not able to be developed due to environmental constraints or preservation, 26 acres of developable land associated with existing developed lots and 31 acres of developable vacant land (see Figure 1). This figure includes a minor proposed revision from the originally submitted delineation, provided by Byram, which appears in Figure 2. The revision would only slightly alter the area summations indicated, and does not affect the findings of the remainder of this review. Most of the vacant developable land in the proposed Center is associated with the "Village Center Zone" (Block 365 Lot 2 and Lot 5) component of the Center.

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The proposed Center has access to wastewater utility services via a contract agreement with the Musconetcong Sewer Authority, to provide capacity of approximately 40,000 gallons per day. The Wastewater Management Plan being developed for Byram Township will need to include this information, along with all details and additional data, as required to meet NJDEP requirements. The ability to develop and redevelop in the Highlands Center will be limited by sewer capacity conditions. The public water utility for the Center is anticipated to be with NJ American Water via an extension of the existing water line at the Route 206 Stanhope border. Project developers may explore alternate options, however, with final proposed plans to be incorporated into development applications. The RMP Municipal Build-out Report for Byram Township indicates that at full-build out the multi-municipal HUC 14 subwatershed for the Center Area would be in deficit status for Net Water Availability. In accordance with Plan Conformance requirements, a Water Use and Conservation Management Plan (WUCMP) is required for the Center and further evaluation of the anticipated NJ American Water extension, or any alternate proposal, will be necessary as a part of development review. The purpose of the WUCMP is to avoid creation of a deficit in Net Water Availability. While most of the Highlands Center consists of developed areas, which are slated for infill and redevelopment, the Smart Growth Plan also envisions a "Village Center Zone" (see Figure 3 and 4) component of mixed-use development occupying approximately 60 acres, to be centered upon a village green (Block 365 Lot 2 and Lot 5). The Village Center includes civic uses, public parks, commercial space, and residential units that include apartments over retail spaces in the Village Core, townhomes, 2- to 4- family units, and single family homes. The Village Center Zone Plan requires both active and passive open space set-asides and integrates the municipality's Prior Round affordable housing obligation throughout the project area. The Highlands Center also identifies Highlands Environmental Resources that are to be protected from future disturbance (such as the Lubbers Run Greenway area), Low Impact Development guidelines, and requirements pertaining to related aspects of development and redevelopment.

Having reviewed all aspects of the municipality's proposal, the Highlands Council staff concludes that designation of Byram's proposed Highlands Village Center would advance the intents and purposes of both the Highlands Act and the Highlands Regional Master Plan (RMP). Highlands Center Designation would have no negative impact upon the public good nor be detrimental to the RMP or the local master plan. Designation would confer substantial benefits upon each, the municipality, the sub-region in which the municipality is located, and the Highlands Region, as a whole. The Highlands Council staff recommends approval of this Highlands Center by the Highlands Council as a component of Plan Conformance for Byram Township.

Rationale for Approval of Highlands Center Designation

1. Highlands Center designation directly addresses the goals of the Highlands Act Planning Area and RMP Future Land Use Programs associated with the identification of suitable locations within the Planning Area of the Highlands Region in which to permit and encourage appropriate, sustainable growth and development.
2. The Byram Center addresses the center designation requirements of the State Development and Redevelopment Plan, which are supported by RMP Policy 6F6 and Objective 6C1a. The plans incorporate the results of an extensive community visioning process that engaged residents in the process, ensured on-going citizen involvement in development/redevelopment projects, and garnered the support of residents and public officials. The plans provide for concentrated development of a community core that does not otherwise exist in Byram; ensure protection of

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the surrounding environs, including the lake districts of the community; call for infill and redevelopment in appropriate locations that optimize the use of existing infrastructure; provide for streetscape enhancements and pedestrian-friendly development initiatives; protect and enhance environmental and historic features within the area; and importantly, focus development outside of the Highlands Preservation Area, which occupies over 98% of the community.

3. The proposed Highlands Village Center would protect significant areas of high integrity forest and critical habitat; areas which may not otherwise remain as contiguous. In total, the Highlands Village Center provides for preservation of approximately 49 acres of land containing Highlands Environmental Resources.
4. The Highlands Center incorporates a “Village Center Zone” area that provides protection of approximately 25 acres as Open Space (in addition to the Village Green area and Highlands Open Waters and associated buffers) representing high integrity forest, Prime Ground Water Recharge Area and Critical Habitat in the Planning Area. While portions of these areas would have been reserved under prior plans, the contiguous nature of the protected areas and resources in the current proposal would not have been achieved without the collaboration undertaken between Byram elected officials and the Highlands Council, the end result of which ensures greater protection through Planning Area Plan Conformance.
5. The delineation of the Lubbers Run Greenway Area in the Village Center maps, the protections to be added into the Highlands Area Land Use Ordinance, and the future municipal-wide Stream Corridor Protection and Restoration Plan, will serve to restore and enhance the overall condition of the Highlands Open Waters and Riparian Area of the subwatershed. Implementation of these resource protection measures will ensure that resources are protected at the subwatershed level, resulting in a significant overall improvement in the protection of Highlands Region Planning Area resources.
6. Incorporation of a Water Use and Conservation Management Plan (WUCMP) provides opportunity for enhanced water resource protections in a key location of the Highlands Region. The purpose of the WUCMP is to avoid creation of a deficit in Net Water Availability for the source HUC14 subwatershed through measures for conservation and recharge protection and augmentation.
7. The modified Village Center Zone component of the Highlands Center allows for approximately 20 acres of additional development and protects 25 acres as open space and a village green area as well as 7 acres of Highlands Open Water buffer areas. The modified arrangement allows for the municipally-proposed development plan to proceed in a more compact form. These changes ensure that protected lands constitute contiguous forest resource lands, eliminating what would otherwise have been fragmented areas of open space, likely requiring significant areas of forest disturbance.
8. The Highlands Center incorporates a Village Center Zone Area that embodies the Smart Growth principles espoused by the RMP Future Land Use Programs and incorporates the Fair Share Plan affordable housing obligations for the municipality in accordance with the RMP. To support these goals, Byram is using form-based code, which will be integrated into the Village Center provisions of the Highlands Area Land Use Ordinance.

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9. The Highlands Center is appropriately situated with ready access to infrastructure and multi-modal transportation opportunities. The plan incorporates pedestrian and bicycle access and trails, and provides connections to community facilities, stream corridor greenway areas, and historic sites.
10. The Highlands Center aligns with the Department of Transportation (DOT) Route 206 Corridor enhancement project and increases pedestrian access and safety using context sensitive design measures.
11. The proposed plans for the Highlands Center incorporate the Low Impact Development principles espoused by the RMP Low Impact Development Program. The plans foresee LEED-certified construction and LEED-based site planning.
12. The Highlands Center offers opportunity for sustainable economic development and eco-tourism, providing needed retail goods and services to the community and surrounding areas, taking advantage of existing transportation links and infrastructure services, and answering to local shopping, social, and recreational needs at an appropriate scale, within proximate distances.
13. The Highlands Center aligns with the Board of Education Long Range Facilities Plan student and facility capacity conditions and supports local educational development plans.

Conditions of Highlands Center Designation

1. The provisions of the Highlands Area Land Use Ordinance governing Byram's Highlands Village Center shall: identify certain environmentally sensitive lands (such as the Lubbers Run Greenway Area) as Highlands Environmental Resources and restrict future disturbance activities; incorporate already-developed areas having potential for infill development and redevelopment; and achieve compact development of the mixed-use Village Center area.
2. The ordinance provisions governing the Village Center shall align development plans with available water supply and wastewater treatment capacities.
3. Pending both funding and technical assistance from the Highlands Council, the Township will, over the long term, develop: a) a municipal-wide Forest Stewardship Plan; and b) a municipal-wide Stream Corridor Protection and Restoration Plan.
4. All Plan Conformance municipalities are required to adopt a Water Use and Conservation Management Plan (WUCMP), however in support of Highlands Center designation the municipality shall expedite the adoption of a WUCMP for the HUC14 subwatershed relied upon for water supply in the Village Center, and ultimately, for the municipality as a whole. This is particularly relevant in Byram Township as the Highlands Municipal Build-Out Report indicates that the HUC 14 subwatershed associated with the Village Center would shift from a positive Net Water Availability to deficit status based on full build-out conditions. The WUCMP will assess the potential for this to occur, and identify means to avoid creation of a deficit in Net Water

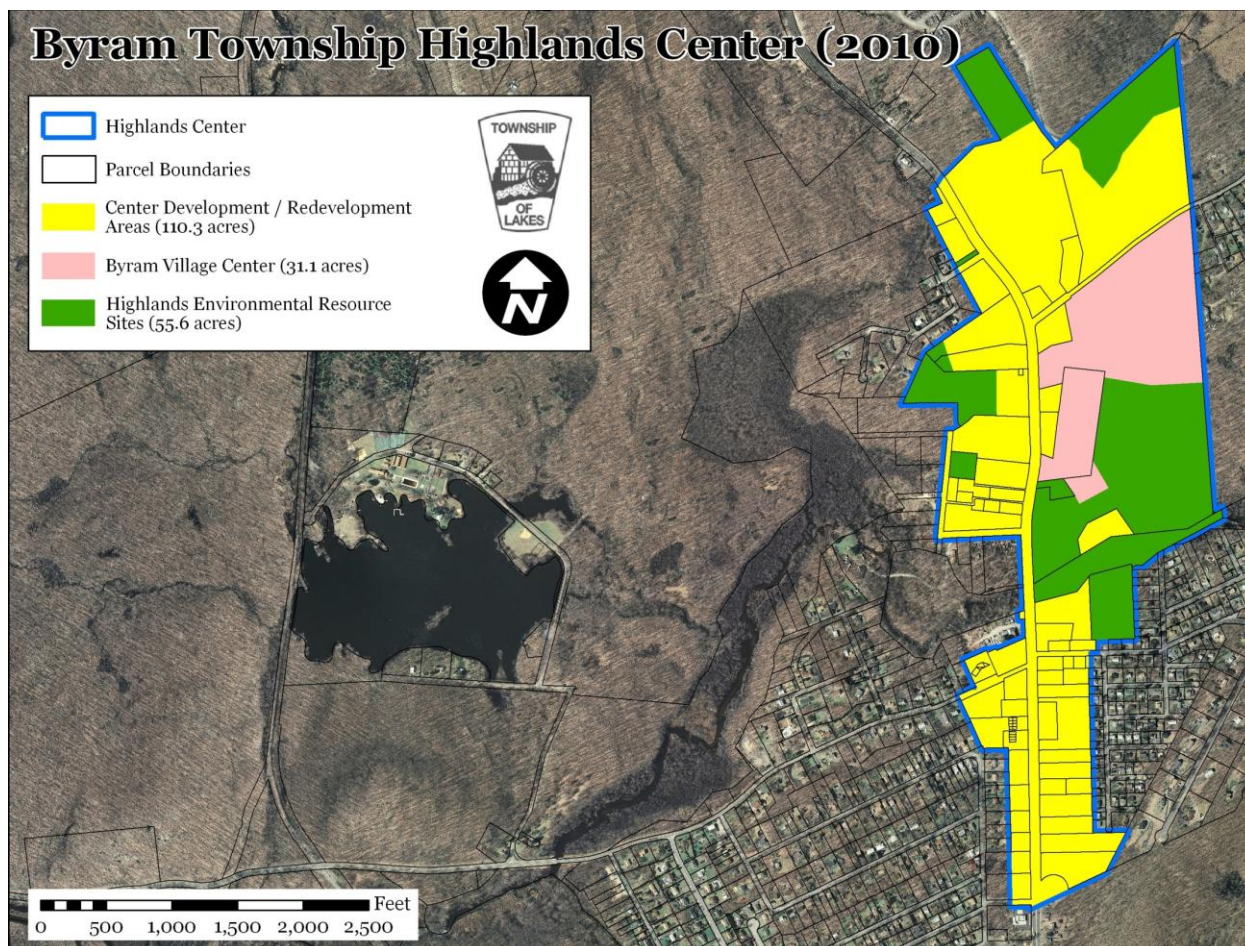
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Availability for the source HUC14 subwatershed through measures for conservation and recharge protection and augmentation.

5. Adoption of ordinance provisions governing the Village Center that include the relevant development and redevelopment conditions required by the RMP Water Resources and Water Utilities Program, and the Future Land Use Program - Low Impact Development, Redevelopment and Housing and Community Facilities components.
6. The Highlands Center designation and associated ordinance provisions shall incorporate existing developed areas and areas that are appropriate for redevelopment in the Planning Area. Highlands Center designation allows for redevelopment to occur within the Center area without further Highlands Planning Area Redevelopment Designation requirements.
7. Adoption of an ordinance petitioning for Plan Conformance with respect to all Planning Area lands.
8. Byram shall comply with the conditions and requirements identified by the Highlands Council as necessary to achieve Highlands Plan Conformance, as specifically set forth within the final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and final, adopted Highlands Council Resolution granting such approval.

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Figure 1. Proposed Byram Highlands Center

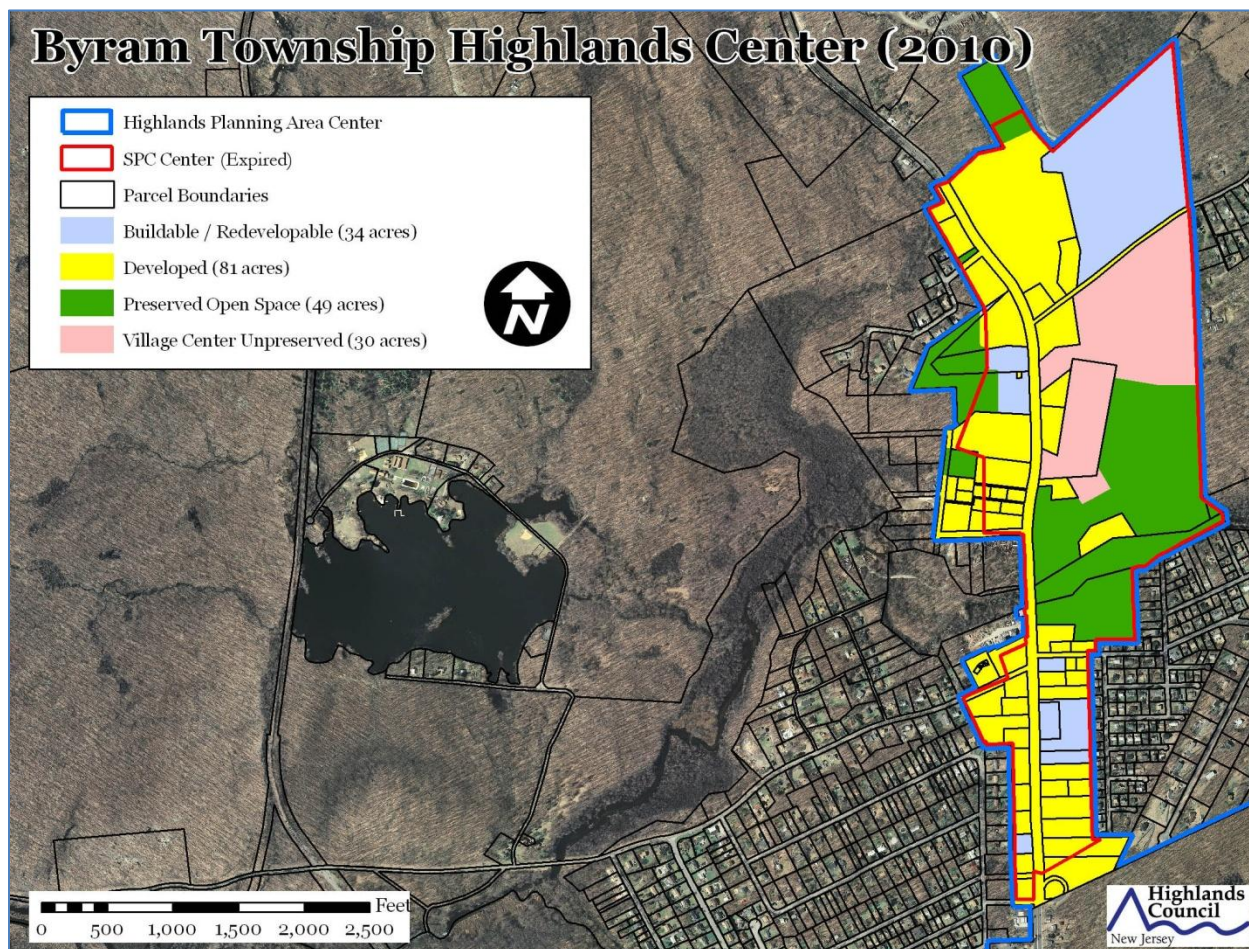


BYRAM VILLAGE CENTER

Two-Family Residential: 8 units
One-Family Residential: 30 units
Townhouse Residential: 24 units
Apartments: 68 units
Commercial/Retail: 90,550 sq. ft.
Civic Uses: 39,640 sq. ft.
Park: 2.67 acres

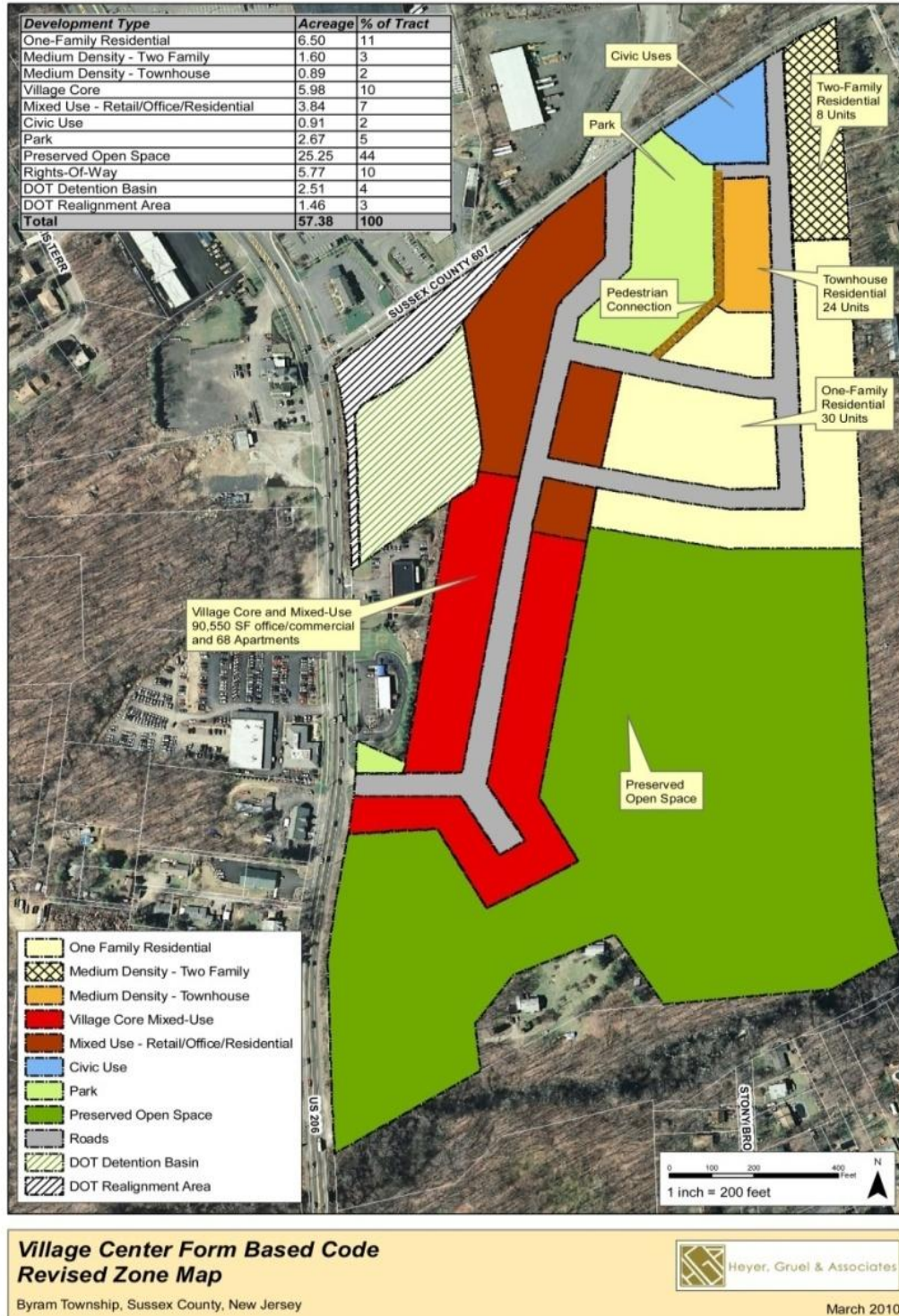
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Figure 2. Byram Village Center Delineation as Initially Proposed



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Figure 3. Byram Highlands Village Center – Acreage and Tract Details (Approximate)



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Figure 4. Byram Highlands Center – Village Center Land Use Details

